

U.S. Application No. 09/620,919, filed July 21, 2000
Attorney Docket No. 13470US02
Response AF dated August 25, 2010 to Provoke Advisory Action
In Response to Office Action Made Final mailed June 25, 2010

REMARKS

Claims 192-224 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,604,741 to Samueli et al (“the ’741 patent”). Applicants respectfully traverse the rejection as set forth below.

In the Office Action Made Final mailed June 25, 2010 (“the Final Rejection”), it is alleged that “[b]ased on the Petition decision 6/1/10. Samueli et al. U.S. Patent Number 5,604,741 became available prior art for current application.”

Applicants respectfully disagree.

On May 11, 2009, Applicants petitioned the Director to change the status of the present application to a “continuation of a reissue application,” instead of a “continuation reissue application” because the Office had initially miscategorized the present application, especially in light of the reasons as set forth in M.P.E.P. § 1451. The Director agreed, in part, with Applicants and re-categorized the present application as a “continuation of a reissue application” instead of a “continuation reissue application”. See M.P.E.P. § 1451

However, the Director did not change the present application’s priority claim or chain. Applicants did not request that the priority claim or chain be amended.

As noted in the Petition filed May 11, 2009 and the Preliminary Amendment filed July 21, 2000, “[t]his application is a continuation of allowed Application No. 09/252,551 filed February 18, 1999, which was a reissue of Patent No. 5,604,741 issued February 18, 1997”. Preliminary Amendment filed July 21, 2000 at page 1.

It is respectfully noted that the present application’s priority claim through the ’741 patent, which was filed on March 15, 1995, has not changed.

Since the ’741 patent is in the priority claim of the present application, it is not available as prior art.

Furthermore, from the claim/chain of priority which has not been changed, the present application has an effective filing date of March 16, 1995. Thus, the ’741 patent which has an

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actual filing date of March 16, 1995 is not prior art.

Since the '741 patent is not prior art with respect to the present application, the '741 patent does not anticipate claims 192-224.

It is therefore respectfully requested that the rejection be withdrawn with respect to claims 192-224.

The Commissioner is hereby authorized to charge any additional fees, to charge any fee deficiencies or to credit any overpayments to the deposit account of McAndrews, Held & Malloy, Account No. 13-0017.

Date: August 25, 2010

Respectfully submitted,

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